

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Competitive Product Prices  
Priority Mail  
Priority Mail Contract 86

Docket No. MC2014-35

Competitive Product Prices  
Priority Mail Contract 86 (MC2014-35)  
Negotiated Service Agreement

Docket No. CP2014-61

PUBLIC REPRESENTATIVE COMMENTS ON  
POSTAL SERVICE REQUEST TO ADD  
PRIORITY MAIL CONTRACT 86  
TO COMPETITIVE PRODUCT LIST

(July 31, 2014)

The Public Representative hereby provides comments pursuant to Order No. 2133.<sup>1</sup> In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Request to add Priority Mail Contract 86 to the competitive product list.<sup>2</sup> The Postal Service's Request includes a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. § 3633(a), a copy of Governors' Decision No. 11-6 and proposed changes to the Mail Classification Schedule competitive product list. The Postal Service also filed (under seal) a contract related to the proposed new product, and supporting financial data.

According to the Postal Service, Priority Mail Contract 86 is a competitive product "not of general applicability" within the meaning of 39 U.S.C. § 3632(b)(3). Request at 1.

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<sup>1</sup> Notice and Order Concerning the Addition of Priority Mail Contract 86 to the Competitive Product List, July 24, 2014 (Order No. 2133).

<sup>2</sup> Request of the United States Postal Service to Add Priority Mail Contract 86 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, July 23, 2014 (Request).

The Postal Service also maintains that the prices and classification underlying the instant contract are supported by Governors' Decision No. 11-6.<sup>3</sup>

## COMMENTS

The Public Representative has reviewed the instant contract, the Statement of Supporting Justification, as well as the worksheets filed under seal that accompany the Postal Service's Request.

*Product List Assignment.* Pursuant to 39 U.S.C. § 3642, the Postal Service requests that Priority Mail Contract 86 be added to the competitive product list. 39 U.S.C. § 3642 requires the Commission to consider whether "the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products." 39 U.S.C. § 3642(b)(1). Products over which the Postal Service exercises such power are categorized as market dominant while all others are categorized as competitive.

The Postal Service makes a number of assertions that address the considerations of section 3642(b)(1). Request, Attachment D at 2. These assertions appear reasonable. Based upon these assertions, the Public Representative concludes that the Postal Service's Request to add Priority Mail Contract 86 to the competitive product list is appropriate.

*Requirements of 39 U.S.C. § 3633.* Pursuant to 39 U.S.C. § 3633(a), the Postal Service's rates for competitive products must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service. Priority Mail Contract 86 contains a contract term of three years subject to

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<sup>3</sup> Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates, March 22, 2011 (Governors' Decision No. 11-6).

certain early termination provisions. Based upon a review of the financial model filed under seal with the Postal Service's Request, it appears that the negotiated prices in the instant contract should generate sufficient revenues to cover costs during its first year and therefore meet the requirements of 39 U.S.C. 3633(a) during its first year. The unredacted version of the contract includes a mechanism for the annual adjustment of prices that ordinarily would help maintain the contract's ability to meet the requirements of 39 U.S.C. 3633(a) over the lifetime of the contract. However, the contract prices herein are tied to Priority Mail Commercial Plus prices. Hence, should the Postal Service not seek a general increase in such prices, cost coverage under this contract could decline. The Public Representative is mindful that the Postal Service will file cost, revenue and volume data in each year's Annual Compliance Report. That will aid the Commission in ensuring that the Priority Mail Contract 86 continues to comply with the requirements of 39 U.S.C. § 3633(a).

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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